



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Fee Application of: Alain Van Sinoy, et al
Serial No.: 10/816,462
Filing Date: April 1, 2004
For: POLYETHYLENE BLENDS WITH GOOD CONTACT
TRANSPARENCY
Examiner: Olga Asinovsky
Art Unit: 1711

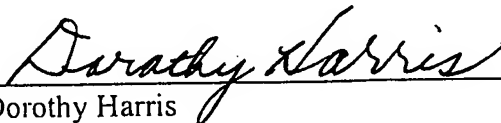
Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL
AND FILING BY FACSIMILE**

The undersigned hereby certifies that the following documents:

1. Certificate of Mailing by First Class Mail and Filing by Facsimile (1 page);
2. Submission of Terminal Disclaimer (2 pages);
3. Terminal Disclaimer ;
4. Check in the amount of \$130.00 to cover the fee for Terminal Disclaimer; and
5. Postcard Receipt

relating to the above application, were deposited as "First Class" with the United States Postal Service, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 and a confirmation copy by facsimile to Fax Number 571-273-8300 on **January 3, 2007**.


Dorothy Harris

31223.00035

F-918



PATENT

DAE
SEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Alain Van Sinoy et al.
Serial Number: 10/816,462
Filing Date: April 1, 2004
Title: Polyethylene Blends with Good Contact Transparency
Group Art Unit: 1711
Examiner: Olga Asinovsky

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

First Class Certificate of Mailing

I hereby certify that the papers enclosed herein are being deposited with the United States Postal Service, via first class mail with sufficient postage, in an envelope addressed to: Mail Stop PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

Susan Turner
Susan Turner

September 28, 2007
Date of Deposit

Sir:

**PETITION UNDER 37 CFR § 1.181 TO
WITHDRAW HOLDING OF ABANDONMENT**

This Petition is filed in response to the Notice of Abandonment dated August 31, 2007.

Applicant hereby petitions for the withdrawal of the holding of abandonment in the above identified application and request that this application be allowed in view of a telephone interview with the Examiner of January 3, 2007 (the substance of which was made of record in this file in accordance with the MPEP, §713.04), the submission of a terminal disclaimer originally filed on January 3, 2007, a new terminal disclaimer dated concurrently herewith, and the additional circumstances stated below. A copy of the original Submission of Terminal

Disclaimer dated January 3, 2007 along with the accompanying Terminal Disclaimer of January 3, 2007 attached thereto is submitted herewith as Exhibit I.

In support of this petition, applicant respectfully makes the following showing.

On September 1, 2006 a Final Rejection issued in the above-identified application. The Final Rejection rejected claims 1-8, 12, and 13-17 (all the claims in the case) as anticipated under 35 U.S.C. 102 (e) or alternatively as obvious under 35 U.S.C. 103 (a). Both rejections were based upon U.S. Patent No. 6,566,450 to Debras.

On November 29, 2006 applicant filed a Response to Office Action traversing the rejections based upon Debras et al under 102 (e) and 103 (a) and showing that this application and the Debras et al patent are commonly assigned for the purposes of 35 U.S.C. 103 (c). Accompanying this response was an exhibit reflecting the name change of the assignee of record in the Debras et al patent to support the showing under 35 U.S.C. 103 (c).

On December 18, 2006 an Advisory Action was issued stating under Request for Reconsideration/Other "The Evidence Exhibit A is illegible and it is not readable, and there is no signature. The rejection after final is not withdrawn."

After further review of this case, a telephone interview was had with Examiner Olga Asinovsky on January 3, 2007. In the course of the interview the Examiner agreed that the claims were patentable over the patent to Debras. However, the Examiner indicated that upon withdrawal of the Final Rejection, a new rejection involving an obviousness type double patenting rejection based upon the Debras patent would be made.

In response to this new determination of a double patenting issue, applicant submitted a terminal disclaimer against the Debras patent on January 3, 2007. In this filing, headed "Submission of Terminal Disclaimer" (filed on January 3, 2007 by First Class Mail and by

Facsimile) applicant made of record the substance of the interview of January 3, 2007. Rather than awaiting a withdrawal of the Final Rejection and the institution of a new nonfinal rejection of obviousness type double patenting based upon Debras et al, the terminal disclaimer was submitted along with the confirmation of the substance of the interview, as noted above.

Although the completed Form PTO/SB/26 does not state the correct application serial number, it is evident from the Submission itself headed "In Re Application of: Alain Van Sinoy et al" and "Serial Number 10/816,462" that the terminal disclaimer was in fact being submitted in Application Serial No. 10/816,462. The submission states in part "--applicants submit herewith a Terminal Disclaimer in the above-identified application against U.S. Patent No. 6,566,450." Thus, the entire filing of January 3, 2007 when considered as a whole does reflect a terminal disclaimer in the "instant application" against the term of Patent No. 6,566,450. Moreover, the terminal disclaimer was approved in the USPTO on January 22, 2007 and the approval document correctly identifies this Application No. 10/816,462. Attached as Exhibit II is a copy of this document as reproduced from PAIR.

Apparently, after reaching the USPTO, the terminal disclaimer dated January 3, 2007, became separated from the Submission of Terminal Disclaimer dated January 3, 2007. As a result, the Examiner apparently failed to appreciate that a terminal disclaimer had been filed and approved and accordingly there remained no further issues in the case since the Examiner had agreed with applicant's attorney that the Debras et al patent did not bar patentability under 35 U.S.C. 102 or 35 U.S.C. 103.

Under the circumstances and in view of the agreement reached in the telephone interview of January 3, 2007, as memorialized in the Submission of Terminal Disclaimer dated January 3, 2007, applicant respectfully petitions that the holding of abandonment be withdrawn. In view of

the defect in the original terminal disclaimer, not recognized until recently by either the USPTO or the applicant, applicant submits herewith a new terminal disclaimer which on its face properly identifies this application.

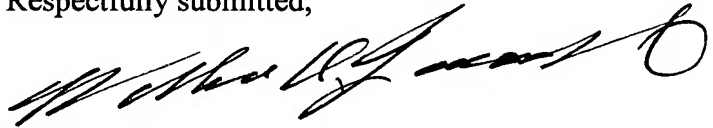
Further applicant would respectfully disagree with the statement made in the Notice of Abandonment under 1(c) that the original reply... “does not constitute a proper reply, or a bona fide attempt at a proper reply...” Even if the terminal disclaimer as filed contained a misidentification, its filing at a minimum represents a “bona-fide attempt at a proper reply”. In any case, the terminal disclaimer was approved and the filing of January 3, 2007, when considered in its entirety, indicates a proper reply.

Further applicant would respectfully submit that he is entitled to rely upon the telephone interview of January 3, 2007, the substance of which was made of record in this file as set forth in the January 3, 2007 submission, as well as the approval of the terminal disclaimer. In view of the indication in the telephone interview that the original rejection would be withdrawn and a new double patenting rejection would issue, if in fact a terminal disclaimer were not properly filed, applicant is entitled to rely upon the Examiner’s position that a new rejection would issue.

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It is Applicant's understanding that a petition fee is not required. Nevertheless, the Commissioner is hereby authorized to charge any fee which may be due in connection with this filing to the Schultz & Associates, P.C. Deposit Account No.50-2225.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William D. Jackson', with a large, stylized circular flourish at the end.

William D. Jackson
Registration No. 20,846

September 28, 2007
Schultz & Associates, P.C.
One Lincoln Centre
5400 LBJ Freeway, Suite 1200
Dallas, Texas 75240
Telephone: 214/210-5931
Facsimile: 214/210-5941

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
31223.00035 (F-918)

In re Application of: Alain Van Sinoy et al.

Application No.: 10/816,462

Filed: April 1, 2004

For: Polyethylene Blends with Good Contact Transparency

The owner*, Total Petrochemical Research Feluy, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. US 6,566,450 B2 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

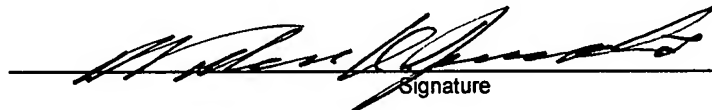
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 20,846


SignatureSeptember 28, 2007
Date10/04/2007 EAYALEW1 00000023 502225 10816462
01 FC 1814 130.00 DAWilliam D. Jackson
Typed or printed name214/210-5940
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included. (Submitted with original Terminal Disclaimer dated January 3, 2007)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

31223.00035
F-918



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Alain Van Sinoy et al
Serial Number: 10/816,462
Filing Date: April 1, 2004
Title: Polyethylene Blends with Good Contact Transparency
Group Art Unit: 1711
Examiner: Olga Asinovsky
Customer No.: 25264

Mail Stop AMENDMENT - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submission of Terminal Disclaimer

Applicants' attorney acknowledges with appreciation the telephone interview granted by Examiner Asinovsky on January 3, 2007. In the course of the telephone interview, the Examiner indicated that the claims herein are patentable over the U. S. Patent No. 6,566,450 to Debras et al., but stated that in view of the common assignee of this application and the Debras et al patent, an obviousness type double patenting rejection based upon Debras et al would issue. In response to this determination, in order to facilitate prosecution of this application to an early conclusion, applicants submit herewith a Terminal Disclaimer in the above identified application against U.S. Patent No. 6,566,450. It is noted that, as stated in applicants' previous response filed

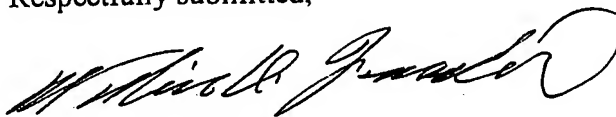
Submission of Terminal Disclaimer
31223.00035

November 29, 2006, Fina Research, S.A., the assignee of record in the Debras et al patent, is now Total Petrochemical Research Feluy.

A check in the amount of \$130.00 to cover the fee for a Terminal Disclaimer is submitted herewith. The Commissioner is hereby authorized to charge any further fees in connection with the filing of this submission to Deposit Account No. 50-2225.

This submission is filed by first class mailing and also with a confirmation copy by facsimile to fax number 571-273-8300.

Respectfully submitted,



William D. Jackson
Registration No. 20,846

January 3, 2007

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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
31223.00035 (F-918)

In re Application of: Guy Debras et al

Application No.: 10/037,934

Filed: January 4, 2002

For: Production of Multimodal Polyethylene

The owner*, Total Petrochemical Research Feluy of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. US 6,566,450 B2 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

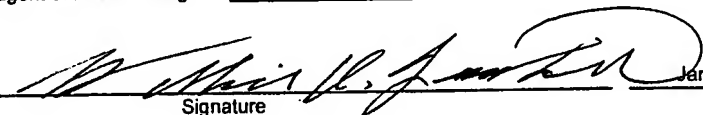
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 20,846

 January 3, 2007
Signature Date

William D. Jackson
Typed or printed name

214/210-5940
Telephone Number


- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

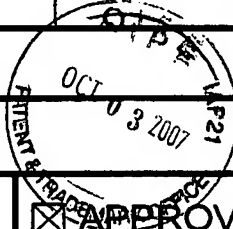
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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Application Number 	Application/Control No. 10/816,462	Applicant(s)/Patent under Reexamination SINOY ET AL.	
Document Code - DISQ		Internal Document – DO NOT MAIL	



TERMINAL DISCLAIMER	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : 01/08/07	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by: <i>Jean Proctor</i>

U.S. Patent and Trademark Office